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STATE LIBRARY OF MASSACHUSETTS
THE COMMONWEALTH OF MASSACHUSETTS

Forty-fourth Annual Report of the
Mass. Commissioners on Uniform State Laws

To His Excellency, The Governor, and the Honorable Council of the Commonwealth of Massachusetts:

In compliance with General Laws we have the honor to submit herewith our Annual Report for the year ending November 30, 1952.

The Commissioners are Willard B. Luther of Cambridge, Joseph F. O'Connell, Jr. of Boston and Edward L. Schwartz of Brookline, all appointed for five-year terms which expire in 1954. In addition Frederick B. Willis, while not a Commissioner, has since 1948 been an Associate Member of the Conference of Commissioners by virtue of his position as Counsel to the House of Representatives of the General Court.

Each state, territory and the District of Columbia have Commissioners similar to those for the Commonwealth. They join in a National Conference which meets annually and sometimes oftener. This year the Annual Meeting was held in San Francisco on September 8-13 inclusive. Commissioners Luther and Schwartz attended.

At its Annual Meeting the Conference re-elected the following officers:

Martin J. Dinkelspiel, California, President
Hon. Paul W. Brosman, District of Columbia, Vice-President
Barton H. Kuhns, Nebraska, Secretary
Boyd M. Benson, South Dakota, Treasurer
Joe C. Barrett, Arkansas, Chairman, Executive Committee

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For the work of the ensuing year of the Conference the Massachusetts Commissioners have received the following appointments:

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| Commissioner Luther | - | Member Executive Committee, Legislative Committee and Section B |
| Commissioner O'Connell | - | Special Committee on Youth Correction Authority Act and Section E |
| Commissioner Schwartz | - | Chairman Special Committee on Uniform Securities Act, member Committees on Public Information, Appointment and Attendance by Commissioners and of Section E |

The Conference was unusually active and approved and recommended for enactment six Model Acts, three Uniform Acts and amendments to three previous Uniform Acts. The Model Acts were all inspired by the report of the Kefauver Committee which had been referred to a committee of the American Bar Association for implementation. This committee in turn called upon the Conference to draft appropriate acts and it appointed a special committee, the Chairman of which was Kurt F. Pantzer of Indiana. The underlying thought was to cover the suggestions in the Kefauver Report but to do so in logically divisible segments so that a state might adopt one or more acts to fill in gaps in its existing legislation without being required to enact all of them as a group. They were:

Crime Investigating Commission Act
Department of Justice Act
Police Council Act
Anti-Gambling Act
State Witness Immunity Act
Act on Perjury

The three Uniform Acts were:

Rules of Criminal Procedure

These were inspired by the Federal Rules although necessarily differing in many respects.

Blood Tests to Determine Paternity

This is a short but highly important act based upon the fact that, through blood tests, it can be positively determined in some cases involving alleged paternity that it would be impossible for a person to be the father of the child in question.

Single Publication

This also is a highly important act designed to prevent a person claiming to have been libeled or slandered through radio, television, chain newspapers or similar media from going into numerous jurisdictions and collecting new damages in each on the ground that the compensation that he got in State A did not cover the damage done him in State B.

The three Amended Acts were:

Narcotic Drug

This act, already passed by 46 jurisdictions, has been frequently amended to keep its provisions abreast of medical discoveries, law enforcement techniques and changes in the federal narcotic laws.

Common Trust Fund

This act has been passed by 22 jurisdictions and the proposed amendments largely deal with administrative

problems which have arisen in actual practice.

Reciprocal Enforcement of Support

Promulgated in 1950 this act has already been passed in 32 jurisdictions and very similar acts in 8 more. Its practical working-out has shown certain administrative difficulties and these are covered by the amendments. It has proved of immense advantage to all states and will be even more so when its operation has become standardized. It was passed in Massachusetts and the amendments will be presented to the General Court in 1953. As an illustration of its benefit to the Commonwealth the Department of Public Welfare reports that for July, 1952 alone action taken affecting 74 families resulted in savings of \$5,058.47, Aid to Dependent Children being thereafter totally discontinued in 66 cases. Even in its embryo stages this would indicate a saving of around \$60,000 annually and when the Act is thoroughly understood and applied should result in vastly greater savings.

At its 1952 Session the General Court passed the only act which was presented by the Commissioners. This was the Photographic Copies as Evidence Act approved in 1949 which has already been enacted in nineteen jurisdictions. This makes a total of twenty-three uniform laws enacted by the General Court of the Commonwealth.

The Commissioners are unpaid and in the past have not only

given largely of their time but have absorbed many of their own expenses. For the current fiscal year their appropriation is \$3,275. In a normal year this might be adequate but in view of the importance of the Commercial Code hereinafter referred to and the work required for its proper presentation to the General Court it is entirely inadequate. A supplemental appropriation will be necessary. For the fiscal year ending in 1954 an appropriation of \$6,800 has been requested and approved by the Budget Commissioner.

In last year's Report the Commissioners referred to the Uniform Commercial Code, the joint product of the Conference of Commissioners and The American Law Institute, and promised this year to report fully upon it and to recommend its adoption by the General Court at its 1953 Session. Beyond question the Code is the most important piece of work of its character ever undertaken in the United States. It has been under way for twelve years at a cost of over \$400,000. The Conference expects that it will be introduced in most states for consideration at their 1953 sessions. It has already had preliminary consideration by Committees of the Legislatures of New York and Pennsylvania.

To understand the origin of and the need for the Code one must start with six Uniform Acts, all of which have for many years been law in Massachusetts. These are the statutes on Negotiable Instruments, Warehouse Receipts, Sales, Bills of Lading, Stock Transfer and Trust Receipts. They have worked well and greatly benefited Massachusetts and the whole country, because three of

them have been adopted by all states and the others by a very large number. More than forty years have elapsed, however, since most of them were enacted and during this period there have been great changes in business practices and also some variation in the interpretations of the acts by the different state courts. The need for modernization became apparent over twelve years ago and the Code is the result. It not only covers all the fields mentioned above but contains new articles on Bank Collections, Letters of Credit, Bulk Transfers, Investment Securities and Secured Transactions, all of which tie into existing Massachusetts statutes. "Bank Collections" and "Letters of Credit" are elaborations of the principles laid down in the Negotiable Instruments Law. "Investment Securities" is an extension of the Stock Transfer Law. "Bulk Transfers" is a qualification of the Sales Act. Finally, "Secured Transactions" consolidates in one harmonious whole present statutes covering Chattel Mortgages, Conditional Sales, Assignments of Accounts Receivable and some Liens. The Code is integrated so that the terminology and approach in one Article ties in logically with those in all other Articles.

The Commissioners recognize that the foregoing is the barest outline and that members of the General Court will want and should have more detailed information. With this in mind the Commissioners will, by the opening of the next General Court, have ready a brief printed history of the Code and a synopsis of

its salient provisions which will be sent to all its Members.

It is hoped that every member can thereby familiarize himself with its broad outlines. No one realizes better than the Commissioners that the wide scope of the Code makes it impossible for most of us to become truly familiar with it. On the other hand the Commissioners can assure the General Court that in its creation the best legal brains of the country have been employed; that it is not revolutionary but seeks only to state modern law as it is applied to modern business conditions; that it has no partisan point of view; and that if widely passed it will be of inestimable value not only to the courts and the legal profession but to the ordinary business man meeting the ordinary problems of commercial life.

Respectfully submitted,

Willard B. Luther

Joseph F. O'Connell

Edward L. Schwartz

December 1, 1952